



COMMODITY FUTURES TRADING COMMISSION

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Division of
Enforcement

July 8, 2022

VIA ECF

The Honorable J. Paul Oetken
United States District Judge
Thurgood Marshall United States Courthouse
40 Foley Square, Room 2101
New York, NY 10007

Re: CFTC v. Archegos Capital Management, LP, et al., No. 22 Civ 3401 (JPO) (S.D.N.Y.)

Dear Judge Oetken:

Pursuant to the Court's Individual Rule 3.C, Plaintiff Commodity Futures Trading Commission ("CFTC") respectfully requests an extension of time, until August 5, to notify the Court and Defendants Archegos Capital Management, LP ("Archegos") and Patrick Halligan (collectively, "Defendants") whether the CFTC will amend its Complaint. If the CFTC elects to amend its Complaint, it would file its amended complaint on August 5, 2022. Alternatively, if the CFTC chooses not to amend its Complaint, the CFTC requests an extension to August 19, 2022 to file oppositions to Defendants' motions to dismiss. The CFTC has conferred with counsel for all Defendants, who do not object to the foregoing requests for extensions of time. No prior request for an extension has been made by the CFTC.

On April 27, 2022, the CFTC filed its Complaint, alleging that from March 2020 to March 2021, Archegos and its Chief Financial Officer, Patrick Halligan, engaged in a scheme to defraud swap counterparties by misrepresenting material facts and omitting to state material facts concerning, *inter alia*, the composition, liquidity, and concentration of the portfolio managed by Archegos. As alleged in the Complaint, Defendants' misrepresentations and omissions concealed from its trading counterparties the true risk of Archegos' portfolio, allowing Archegos to amass positions totaling billions of dollars in swaps within the CFTC's statutory jurisdiction, as well as billions of dollars more in other financial products. Archegos' former Head Trader, William Tomita, and former Director of Risk Management, Scott Becker, have each admitted to engaging in the charged scheme through administrative settlements with the CFTC. In addition, Tomita and Becker have each entered into consent judgments in a related action brought by the Securities and Exchange Commission and have each pled guilty in a parallel criminal case in this District.¹

¹ On April 27, 2022, the Securities and Exchange Commission filed a related action, SEC v. Hwang, et al., No. 22 Civ 3402 (the "SEC Action"), which arises out of an interrelated series of events and names some of the same defendants. Both this action and the SEC Action were accepted by your Honor as related on April 29, 2022. Two parallel criminal cases are also

The Hon. J. Paul Oetken

July 8, 2022

Page 2 of 2

On July 1, Defendants Archegos and Halligan moved to dismiss the CFTC's Complaint (DE 23-28). The Court's Individual Rule 3.D requires the CFTC to notify the Court and Defendants by July 11, 2022 whether and when the CFTC will file an amended complaint, or alternatively, file an opposition to Defendants' motions. Pursuant to Federal Rule of Civil Procedure 15 and Local Rule 6.1(b), absent an extension, the CFTC's opposition to Defendants' motions must be filed by July 15, or alternatively, the CFTC may file an amended complaint as a matter of course by July 21.

The CFTC requires additional time to analyze Defendants' motion papers, which raise various grounds for dismissal, in order to assess whether to amend its Complaint, or alternatively, file oppositions to Defendants' motions. In addition, the requested extensions are necessary to allow the CFTC to proceed under its administrative framework, which requires that the CFTC Division of Enforcement seek and obtain Commission approval before an amended complaint may be filed. Accordingly, the CFTC respectfully requests that the Court grant the foregoing extensions.

/s/ Jacob W. Mermelstein
Jacob W. Mermelstein
Trial Attorney
Commodity Futures Trading Commission

pending in this District: United States v. Scott Becker and William Tomita, 22 Cr. 231 (LTS), and United States v. Sung Kook (Bill) Hwang and Patrick Halligan, 22 Cr. 240 (AKH).